

of Pleas and Quarter Sessions of the county in which such land, or the greater part thereof may lie; and upon such application, the court shall appoint five disinterested and impartial freeholders to assess the damages to the owner from the condemnation of the land, for the purpose aforesaid. No such appointment, however, shall be made, unless ten days previous notice of the application shall have been given to the owner of the land, or to the guardian, if the owner be an infant, or to the committee, the owner being *non compos mentis*, if such owner, guardian or committee, can be found within the county—or if he cannot be so found, then such appointment shall not be made, unless notice of the application shall have been published at least one month next preceding, in some newspaper printed as convenient as may be to the court house of the county, and shall have been posted at the door of the court house on the first day at least of the next preceding term of the said court. A day for the meeting of said freeholders to perform the duty assigned them, shall be designated in the order appointing them; and any one or more of them attending on that day, may adjourn from time to time until their business shall be finished. Of the five freeholders so appointed, any three or more of them may act, after having been duly sworn or solemnly affirmed, before some justice of the peace, that they will impartially and justly, to the best of their ability, ascertain the damages which will be sustained by the proprietor of the land, from the consideration thereof, for the use of the company, and that they will truly certify their proceedings thereupon, to the court of the said county.

13. It shall be the duty of the said freeholders, in pursuance of the order appointing them, to assemble on the land proposed to be condemned, and after viewing the same, and hearing such proper evidence as either party may offer, they shall ascertain according to their best judgment, the damages which the proprietor of the land will sustain by the condemnation thereof, for the use of the Company. In performing this duty, they shall consider the proprietor of the land as being the owner of the whole fee simple interest therein. They shall take into consideration, the quality and quantity of the land to be condemned; the additional fencing that will be required thereby; and all other inconveniences which will result to the proprietor from the consideration thereof.

14. When the said freeholders shall have agreed upon the amount of damages, they shall forthwith make a written report of their proceedings, under their hands and seals, in substance as follows: We, _____ freeholders, appointed by an order of the Court of Pleas and Quarter Sessions, for the purpose of ascertaining the damages that will be sustained by _____ the proprietor of certain lands in the said county, which the president and directors of the Raleigh and Fayetteville Rail Road Company propose to condemn, for their use, do hereby certify that we met together, on the land aforesaid, on the day _____ of _____ the day appointed therefor by the said order, (or the day to which we were regularly adjourned from the day appointed for our meeting, by the said order) and that having been first duly sworn, and having visited the premises, we proceeded to estimate the quantity and quality of the land aforesaid, the quantity of additional fencing which would probably be occasioned by its condemnation, and all other inconveniences which seemed to us likely to result therefrom, to the proprietor of said land. That under the influence of these considerations, we have estimated, and do hereby assess the damages aforesaid, at the sum of _____. Given under our hands and seals this _____ day of _____. At the foot of the report so made, the magistrate before whom the said freeholders were sworn shall make a certificate, in substance as follows:—“ _____ county, set: I, _____, a justice of the peace of said county, do hereby certify that the above named freeholders, before they executed their duties as above certified, were solemnly sworn (or affirmed) before me, that they would impartially and justly, to the best of their ability, ascertain the damages which would be sustained by the above named _____ by the condemnation of the above mentioned land, for the